



NORTH DAKOTA COURT SYSTEM
Office of the State Court Administrator
600 East Boulevard Avenue
Bismarck, North Dakota

Request For Proposal (RFP)

RFP Number: 180-19-02
Date of Issue: November 13, 2019

**THE NORTH DAKOTA COURT SYSTEM
IS SEEKING A VENDOR TO CONDUCT A
CLERK OF COURT WORKLOAD ASSESSMENT STUDY**

Sally Holewa
State Court Administrator

Contents – RFP # 180-19-02 Clerk of Court Workload Assessment Study

Section One – Introduction and Instructions.....	4
1.01 Purpose of the RFP	4
1.02 Contact Person, Telephone, Fax, E-Mail.....	4
1.03 RFP Schedule of Events.....	5
1.04 Return Mailing Address and Deadline for Receipt of Proposals	5
1.05 Assistance to Vendors with a Disability	5
1.06 Deadline for Receipt of Questions and Objections	5
1.07 Approved Vendor Registration Requirements	6
1.08 Amendments to the RFP.....	6
1.09 Electronic Posting of RFP	6
Section Two – Background Information	6
2.01 Background Information on the North Dakota Court System	6
2.02 Background and Purpose of this Request.....	7
2.03 Scope of Work.....	8
Section Three – Proposal Format and Content.....	9
3.01 Applicant Information.....	9
3.02 Introduction	9
3.03 Experience and Qualifications	10
3.04 Method to Complete the Project.....	10
3.05 Cost Proposal	11
Section Four – Evaluation Criteria and Vendor Selection	11
4.01 Evaluation Criteria	11
4.02 Clarification of Proposals	11
4.03 Interview	12
4.04 Right of Rejection	12
Section Five – General Contract Information	12
5.01 Contract Term.....	12
5.02 Contract Type.....	12
5.03 Standard Contract Provisions	12
5.04 Proposal as Part of the Contract.....	13
5.05 Additional Terms and Conditions	13

5.06 Contract Approval..... 13
 Section Six – Standard Proposal Information 13
6.01 Authorized Signature 13
6.02 State Not Responsible for Preparation Costs 13
6.03 Conflict of Interest 13
6.04 Vendor’s Certification 14
6.06 Subcontractors..... 14
6.06 Right to Submitted Material 14
 Sample Service Agreement 15

Request for Proposal – Clerk of Court Workload Assessment RFP # 180-19-02

Section One – Introduction and Instructions

1.01 Purpose of the RFP

The North Dakota Court System is soliciting proposals for a statewide workload assessment for clerk of court services to be completed by September 30, 2020.

This RFP is being issued in conjunction with RFP# 180-19-01, which is a request for a statewide judicial resources weighted caseload study to be completed by August 1, 2020, and RFP# 180-19-03, which is a juvenile staffing study to be completed by March 1, 2021. Please note that although these RFPs are being issued together, the scope of the work for each study is not identical. Vendors are not required to bid on more than one study and should tailor their proposal to best reflect their expertise and capabilities.

Vendors are invited to submit separate proposals for any individual study or they may choose to submit a proposal that encompasses any combination of the studies.

1.02 Contact Person, Telephone, Fax, E-Mail

The Program Administrator is the point of contact for the RFP. The Program Administrator for this RFP is:

Sally Holewa
State Court Administrator
Office of the State Court Administrator
Mail Stop 180
600 E. Boulevard Avenue
Bismarck, ND 58505-0530
Phone: 701-328-4216
Fax: 701-328-2092
E-mail: sholewa@ndcourts.gov

1.03 RFP Schedule of Events

This schedule of events represents the best estimate of the schedule that will be followed for this RFP. The schedule is subject to change by the North Dakota State Court Administrator. In the event a change is made to any component of this schedule, the rest of the schedule will be adjusted by an equal number of days. Should this occur an amended schedule will be posted on the court's website at: <https://www.ndcourts.gov/state-court-administration/finance>.

RFP Issued: November 13, 2019

Deadline for submission of questions/objections: 5 p.m. Central Time, December 6, 2019

Response to questions/objections: 5 p.m. Central Time, December 11, 2019

Proposals due by: 5 p.m. Central Time, December 23, 2019

Contract Issued by: January 31, 2020

Contract start: February 28, 2020

Final Project Due Date: December 31, 2020

1.04 Return Mailing Address and Deadline for Receipt of Proposals

Four copies of the proposal must be received in the North Dakota State Court Administrator's Office by 5:00 p.m. central time, on December 23, 2019 at this address:

Office of the State Court Administrator

Attn: Sally Holewa

Mail Stop 180

600 E. Boulevard Avenue

Bismarck, ND 58505-0530

1.05 Assistance to Vendors with a Disability

Vendors with a disability who need an accommodation should contact the Program Administrator listed in Section 1.02 sufficiently in advance of the deadline for receipt of proposals so that reasonable accommodations can be made without impacting the vendors ability to respond to the RFP within the deadline for responses.

1.06 Deadline for Receipt of Questions and Objections

Vendors must carefully review the solicitation and all attachments for defects, questionable, or objectionable material. All questions must be submitted in writing to the e-mail address provided in Section 1.02 and cite the subject RFP in the title. All questions are due by the deadline specified in Section 1.03.

1.07 Approved Vendor Registration Requirements

Proposals will be accepted from vendors that are not currently approved vendors on the State's bidder list. The successful vendor will be required to register as a vendor with the State of North Dakota Office of Management and Budget department within 30 days of acceptance of the contract award.

1.08 Amendments to the RFP

If an amendment to this RFP is issued it will be provided to all vendors that were mailed a notice of the RFP and to those who have requested a copy of the RFP.

1.09 Electronic Posting of RFP

The RFP, any amendments to the RFP, any questions submitted by vendors and the responses to those questions will be posted on the following website: <http://www.ndcourts.gov/rfp>. Vendors are encouraged to check the website periodically for any updates related to this RFP. Questions can be directed to Ms. Sally Holewa at the e-mail or mailing address provided in section 1.04.

Section Two – Background Information

2.01 Background Information on the North Dakota Court System

The North Dakota Court System is a unified state court system consisting of one Supreme Court, a temporary, intermediate appellate court that can be called into session as needed, and 53 district courts with general jurisdiction. There are 52 district court judges in the state. The chief justice of the Supreme Court is the administrative head of the court system.

The district courts have original and general jurisdiction in all cases except as otherwise provided by law. The district courts also serve as the juvenile courts in the state and have exclusive and original jurisdiction over any minor who is alleged to be unruly, delinquent, or deprived.

The court is organized into eight judicial districts. In each judicial district, there is a presiding judge who oversees judicial services of courts in the geographical area of the judicial district. The court is further divided into four administrative units. In each unit, there is a trial court administrator who is responsible for the managerial and administrative duties of two districts

The average annual caseload for the state is 157,284 cases. The court employs 366 non-judicial staff, and contracts with 39 counties to provide additional clerk of court services.

A profile of the current court North Dakota court structure and more detail about the court structure and jurisdiction can be found on the court's website at: <http://www.ndcourts.gov>.

2.02 Background and Purpose of this Request

The purpose of this project is to develop a court staffing model which includes an accurate and objective set of case weights to determine clerk of court staffing needs and provides an objective standard for the efficient allocation of state-employed clerk of court staff. In addition, the workload need is used to determine which counties are eligible to transfer clerk of court services to the State of North Dakota and serves as the basis for reimbursing counties for clerk of court services in those counties where the responsibility for clerk of court services has been retained by the county.

Clerk of court services in North Dakota were traditionally the responsibility of each county. In 1995, legislation was passed which transferred employment of some clerks of court and their staff to the State of North Dakota effective January 1, 2000. The legislation also provided an option for other counties to voluntarily transfer the employment of clerks to the State of North Dakota based on staffing needs. The State is required to contract with any county that chooses to retain the responsibility for clerk of court services or is ineligible to transfer clerk services and to reimburse the county for services provided according to workload need.

Prior to the initial transfer of responsibility in 2000, the North Dakota Court System contracted with the National Center for State Courts to conduct a Delphi study to determine staffing needs for each office.

In 2004, the Court contracted with the National Center for State Courts to supplement the earlier Delphi study with a time study. The time study included all 53 clerk of court offices and covered 13 case types, 6 case functions, and 7 non-case related activities. In 2012, the Court contracted with the National Center for State Courts to update the workload study. Copies of the 2012 study and the most results of the most recent (2017-2018) staffing assessment are available upon request.

The 2012 study was conducted after the court had converted to electronic records but prior to the court mandating that all case documents be electronically filed. Although the court made a later adjustment to all case weights to offset the efficiencies gained by use of electronic filing the reductions were based on a limited, internal time study and have not been validated as a

reliable measure. Additionally, since 2012 the court has introduced other efficiencies by eliminating file stamp requirements, automating hearing notices and document filing notices to eliminate the need for clerks to print and mail documents to attorneys, and automated reporting to probation, abstractors, newspapers, and others.

While creating efficiencies in standard clerk work through the use of automation, the court has also imposed new duties on the clerks of court including new requirements for guardianship cases, review of cases for data quality, and special work processes for mass tort cases.

2.03 Scope of Work

The project will result in the up-to-date workload assessment of clerk of court services and will take into account workload changes as the result of:

- (1) Implementation of a new case management system;
- (2) Implementation of imaging and the capture and use of electronic documents;
- (3) Implementation of electronic filing;
- (4) Implementation of new work requirements; and
- (5) Statutory changes resulting in new data requirements and new case types.

The vendor will be asked to:

- Develop a model for accurately estimating work force requirements. The selected vendor will be required to create a mathematical model that can be utilized by the North Dakota Court System to assess the ongoing staffing needs of the court.
- Estimate the current work force requirements. The selected vendor will be required to calculate the full-time equivalent (FTE) work force requirements for clerk of court staff by determining the total time required to complete the work functions and dividing the total work activities by the time allotted for each FTE.
- Conduct a time study for a minimum of 4 weeks, which will include all 14 state-employed clerks of court offices but will not include the 39 county offices.
- Conduct a time study for mass tort litigation and parental notification case types using a simulation of work performed.
- Include a comparison of judicial need using the mean, the mode, and the middle quartile of the times collected for each case type included in the study.

- Include an opinion as to whether the court’s current method of using the rolling 2-year average weighted caseload is the best statistical method of determining changes in judicial need.
- Estimate the current work force requirements for staffing the clerk of court offices throughout the state. The selected vendor will be required to calculate the full-time equivalent (FTE) work force requirements for all 53 clerk of court office in the state.
- Regularly provide progress reports to the Program Administrator assigned to the project.
- Consult with a steering committee designated by the North Dakota State Court Administrator to assist with the study design and review data collection and vendor interpretation of data to ensure accuracy.
- Provide a final written report in both printed and electronic format.

Section Three – Proposal Format and Content

To aid in the comparative evaluation of proposals, all proposals must be submitted in paper (4 copies) and electronic format (1 continuous PDF via USB drive or BOX) and contain the following information in the order listed.

3.01 Applicant Information

These items must be included on the coversheet of the proposal:

- Name of the organization;
- Principal address of the organization;
- Nature of the organization (corporation, private company, non-profit, etc.);
- Name, title, e-mail address, phone number, and mailing address of the person submitting the proposal, if different from the principal address of the organization; and
- Contact information, including an e-mail address for the project director or primary person to be contacted on matters involving the proposal, if different from the person submitting the proposal

3.02 Introduction

Proposals must confirm that the vendor will comply with all provisions in this RFP. The proposal must disclose any instances where the organization or any individuals working on the contract has a possible conflict of interest, and if so, the nature of that conflict.

3.03 Experience and Qualifications

Vendors must describe the experience of their organization in conducting and completing the kind of research and analysis described in this document including evaluation, multi-site project coordination, collaborative research strategies, and use of qualitative and quantitative research methods. Additionally, vendors must provide information specific to the personnel assigned to accomplish the work required. Vendors must provide a narrative description of the organization of the project team and a personnel roster that identifies each person who will actually work on the contract and provide the following information about each person listed:

- a) Title;
- b) resume;
- c) description of the type of work the individual will perform on this project; and
- d) number of estimated hours for each individual named above.

3.04 Method to Complete the Project

An overall plan with time estimates for completion of all work is required. Elements of the plan should include:

- A description of the vendor's approach to meeting the Purpose of the RFP and Scope of Work as described in Sections 2.02 and 2.03 of this RFP.
- A description of any data collection instruments and methods to be used in collecting data.
- A description of any supplemental tasks (data collection, information dissemination, staff assignment to project oversight committees, etc.) that it is expected the North Dakota Court System will need to perform to assist the vendor in achieving the Purpose of the RFP as described in Section 2.02 of this RFP.
- A proposed timeline for the project.
- A description of the final product to be delivered to the North Dakota Court System.

Special Note: If vendor is submitting a single proposal that encompasses this study (RFP # 180-19-02), the judicial resources study (RFP# 180-19-01) and the Juvenile Staffing Study (RFP # 180-19-03) or any combination of the requested studies, the proposal must include a separate project plan for each study.

3.05 Cost Proposal

Vendors should carefully consider the resources needed to successfully implement the proposed project and present a realistic budget that accurately reflects project costs. The proposal should include a line item budget showing costs for personnel, travel, equipment, supplies, other costs, and indirect costs.

Special Note: If vendor is submitting a single proposal that encompasses this study (RFP # 180-19-02), the judicial resources study (RFP# 180-19-01) and the Juvenile Staffing Study (RFP # 180-19-03) or any combination of the requested studies, the proposal must include a separate cost proposal for each study.

Section Four – Evaluation Criteria and Vendor Selection

4.01 Evaluation Criteria

(1) General Criteria: In evaluating the proposals, cost will be an important but not the sole factor in awarding a contract. The North Dakota Court System will evaluate all proposals using the following criteria:

- a) Responsiveness to the described work plan;
- b) Vendor experience in similar assignments;
- c) Experience and expertise of staff to be assigned to the project;
- d) Vendor ability to meet timing requirements to complete the project;
- e) Comments received from references provided by the vendor and from current or former customers of the vendor who are known to the court but who may not be listed as a reference in the vendor's proposal; and
- f) Reasonableness of cost projections.

(2) Preferred Vendor: Preference will be given to vendors who submit proposals for any combination of the Clerk of Court Workload Assessment study (RFP# 180-19-02), the Judicial Resources Weighted Caseload Study (RFP # 180-19-01, and the Juvenile Court Staffing Study (RFP# 180-19-03) and are able to minimize duplicative effort and travel expenses by effectively utilizing staff and resources in the conduct of the studies.

4.02 Clarification of Proposals

In order to effectively evaluate each proposal, communications by the Program Administrator or the proposal evaluation committee are permitted with a vendor to clarify uncertainties or eliminate confusion concerning the contents of a proposal and determine responsiveness to the

RFP requirements. Clarifications may not result in a material or substantive change to the proposal. The initial evaluation may be adjusted because of a clarification under this section.

4.03 Interview

It may be necessary to interview one or more vendors to clarify aspects of their submittal or to select from two or more vendors. If interviews are conducted, they will take place by telephone, interactive video or web conferencing.

4.04 Right of Rejection

The North Dakota State Court System reserves the right to reject any or all proposals, in whole or in part. Proposals received from barred or suspended vendors will be rejected. Any proposal that is not responsive to all of the material and substantial terms, conditions, and performance requirements of the RFP may be rejected.

The North Dakota Court System reserves the right to waive any minor irregularities in the proposal or request for proposal process that do not have a substantive bearing on the RFP process.

The North Dakota Court System reserves the right to reject all proposals and to refrain from making any award if it determines it to be in its best interest to do so.

Section Five – General Contract Information

5.01 Contract Term

The North Dakota State Court Administrator intends to enter into a contract with an effective period of February 28, 2020 to February 28, 2021.

5.02 Contract Type

The contract is a Firm Fixed Price contract.

5.03 Standard Contract Provisions

The successful vendor will be required to sign a contract similar to the one attached to this RFP. The vendor must comply with the contract provisions set out in this attachment. Any objections to the contract provisions must be set out in the vendor's proposal. No alteration of these provisions will be permitted without prior written approval from the North Dakota State

Court Administrator. Vendors are instructed to contact the Program Administrator, in writing and by the deadline set for questions, with any concerns regarding the contract provisions.

5.04 Proposal as Part of the Contract

Part or all of this RFP and the successful proposal may be incorporated into the contract.

5.05 Additional Terms and Conditions

The North Dakota State Court Administrator reserves the right to add, delete, or modify terms and conditions during the contract negotiations. These terms and conditions will be within the scope of the RFP and will not affect the proposal evaluations.

5.06 Contract Approval

This RFP does not, by itself, obligate the North Dakota Court System. The North Dakota Court System obligation will commence when the North Dakota State Court Administrator approves the contract. Upon written notice to the vendor, the State Court Administrator may set a starting date for the contract that is different from the proposed starting date set forth in this RFP. The North Dakota Court System will not be responsible for any work done by the vendor, even work done in good faith, if it occurs prior to the contract start date set by the North Dakota State Court Administrator.

Section Six – Standard Proposal Information

6.01 Authorized Signature

An individual authorized to bind the vendor to the provisions of the RFP must sign all proposals.

6.02 State Not Responsible for Preparation Costs

The State will not pay any cost associated with the preparation, submission, presentation, or evaluation of any proposal.

6.03 Conflict of Interest

Vendors must disclose any instances where the organization or any individuals working on the contract has a possible conflict of interest and, if so, the nature of that conflict. The State reserves the right to cancel the award if any interest disclosed from any source could either

give the appearance of a conflict or cause speculation as to the objectivity of the vendor's proposal. Determination regarding any questions of conflict of interest will be made by the North Dakota State Court Administrator and is final.

6.04 Vendor's Certification

By signature on the proposal, a vendor certifies that it complies with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.

6.06 Subcontractors

Work proposed to be performed under this contract by the vendor or its employees shall not be subcontracted without prior approval of the North Dakota State Court Administrator.

6.06 Right to Submitted Material

All responses, inquiries, or correspondence in relation to or in reference to the RFP, and all reports, charts, displays, schedules, and other documents submitted by the vendor shall become the property of the North Dakota Court System when received.

Sample Service Agreement

THIS AGREEMENT IS made between the North Dakota Court System (hereinafter referred to as COURT) and _____, (hereinafter referred to as CONTRACTOR).

The parties agree to:

- I. **Term.** The work under this Agreement will commence on _____, and the project must be completed on or before _____, unless the time for completion is extended by mutual agreement of the parties, in writing, as provided in this Agreement.
- II. **Services to be Performed by CONTRACTOR.** CONTRACTOR shall perform the services described in the Request for Proposal and in the manner proposed in CONTRACTOR'S proposal, except as amended by the mutual agreement of the parties.
- III. **Compensation.**
 - (a) For the performance of services under this Agreement, the COURT shall pay CONTRACTOR _____, based upon the budget outlined in CONTRACTOR'S proposal.
 - (b) CONTRACTOR agrees that its records relating to compensation payable to COURT for the services rendered will be available for review by COURT or its authorized representative during normal business hours with prior notice. Such records must be retained by CONTRACTOR for a period of three years from the date of the termination of this Agreement during which period they will remain available for review by COURT.
 - (c) All invoices and statements for services rendered should be mailed to COURT as follows:

Office of the State Court Administrator
Mail Stop 180
600 E. Boulevard Avenue
Bismarck, ND 58505-0530

- IV. **Independent Contractor Status.** CONTRACTOR'S status for conduct of tasks described in this Agreement is as an independent contractor, not as an agent or employee of the COURT. Any and all employees of CONTRACTOR while engaged in performance of any work or service required by COURT under this Agreement are considered employees of CONTRACTOR only. Any and all claims that may arise under the North Dakota Worker's Compensation Act on behalf of CONTRACTOR'S employees while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of CONTRACTOR'S employees while so engaged in any of the work or services so provided to be rendered under this Agreement are the sole obligation and responsibility of CONTRACTOR.

- V. Acceptance Procedure.** CONTRACTOR shall render the reports and deliverables described in the Request for Proposal, under the terms and conditions listed in it. COURT shall have a maximum of twenty (20) working days from the delivery of the final draft of the completed project to respond in writing to such delivery. If COURT believes the completed project does not conform to the requirements of the Agreement, it shall notify CONTRACTOR in writing, within the above-mentioned twenty (20) days and shall indicate with particularity in what manner the project fails to conform. In the absence of such notice of non-conformance, acceptance of the work products will be presumed.
- VI. Covenant against Contingent Fees.** CONTRACTOR warrants that it has not employed or retained any company or person other than bona fide employees to solicit or secure this Agreement and that it has not paid or agreed to pay any company commission, percentage, brokerage fees, gifts, or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, COURT has the right to annul this Agreement without liability, or in its discretion, to deduct from the Agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.
- VII. Nondiscrimination in Employment.** During the performance of this Agreement, CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, disability or national origin.
- VIII. Contingencies.** If CONTRACTOR fails to perform under this Agreement due to causes beyond the control and without the fault or negligence of CONTRACTOR, such failure will not constitute a default in performance. If such an event occurs, COURT and CONTRACTOR may make such other agreements as may be necessary and possible to facilitate contract completion.
- IX. Termination by COURT.**
- (a) **Failure of CONTRACTOR to Fulfill Obligations.** If for any reason, other than the causes set out in paragraph VII, CONTRACTOR fails to fulfill its obligations under this Agreement, COURT shall notify the CONTRACTOR in writing of the specific nature of the failure. Termination is effective thirty (30) days following receipt of COURT'S written notice, provided that
CONTRACTOR was provided a reasonable time to remedy or dispute the deficiencies listed by COURT. CONTRACTOR has the right to receive just and equitable compensation for any satisfactory work completed prior to the date of termination under this paragraph.
- (b) **Failure of COURT to Secure Funding.** If the North Dakota legislature fails to appropriate funds to begin, continue or finish this project, this Agreement will automatically terminate and CONTRACTOR may not enforce the remaining term of the Agreement. CONTRACTOR has the right to receive just and equitable compensation for any satisfactory work completed prior to the date of termination under this paragraph.

- X. Termination by CONTRACTOR.** If COURT fails to comply with any material term or condition of this Agreement, CONTRACTOR may terminate this Agreement on written notice to COURT. Termination is effective thirty (30) days following receipt of CONTRACTOR'S written notice, provided that COURT was provided a reasonable time to remedy or dispute the deficiencies listed by CONTRACTOR.
- XI. Renewal.** This contact will not automatically renew.
- XII. Access to Information and Facilities.** COURT recognizes that convenient and timely access to relevant data, information, personnel, and facilities is necessary to the performance of this Agreement, and will assist or otherwise aid CONTRACTOR in the procurement of such data or information or access to personnel and facilities as requested by CONTRACTOR.
- XIII. Publication.** CONTRACTOR may publish information, interim and final reports produced in the conduct of this project, with the written permission of COURT.
- XIV. Copyright.** COURT retains all rights, title and interest in and to all data, report materials, reports, copyrights, artwork, illustrations, and other original materials that are compiled or result from this project.
- XV. Governing Law.** The laws of the state of North Dakota shall govern the validity, construction, interpretation and effect of this Agreement.
- XVI. Conflicts in Documents.** Notwithstanding anything in this Agreement to the contrary, in the event of any inconsistency or conflict among the documents making up this Agreement, the document must control in this order of precedence: (I) this Agreement; (ii) Request for Proposal dated _____; (iii) CONTRACTOR'S proposal in response to the Request for Proposal dated _____; (iv) written correspondence between the parties to this Agreement which contains reference to this Agreement, the Request for Proposal, or CONTRACTOR'S proposal.
- XVII. Modification.** This Agreement constitutes the final, integrated expression of the Agreement of COURT and CONTRACTOR. No amendments or changes may be made to the terms and conditions of this Agreement without the mutual written consent of the parties.
- XVIII. Waivers.** The failure of the parties to enforce, at any time, the provisions of this Agreement or the failure to exercise any option that may be provided in this Agreement is not a waiver of such provisions and does not affect the validity of this Agreement or any part of it or the right of the parties to enforce each and every provision and to exercise any such option. No waiver of any breach of this Agreement may be held to be a waiver of any other or subsequent breach. All remedies available under this Agreement are cumulative, that is as being in addition to every other remedy provided by operation of law.

XIX. Severability. If any term of this Agreement is declared to be illegal or unenforceable by a court having jurisdiction, the validity of the remaining terms is not affected and, if possible, the rights and obligations of the parties will be construed and enforced as if the contract did not contain that term.

XX. Representatives of Contracting Parties. The following designated parties, notwithstanding conflicting provisions found in the Proposal incorporated herein, shall represent the parties to this Agreement for required notification and communication:

(a) **Representing COURT:**

Office of the State court Administrator
Mail Stop 180
600 E. Boulevard Avenue
Bismarck, ND 58505-0530
Phone: 701-328-4216

(b) **Representing CONTRACTOR:**

XXI. Maintenance, Access and Examination of Records. If this Agreement is completely or partially terminated, the records relating to the work terminated must be preserved and made available for a period of three years from the date of any resulting final settlement.

XXII. Confidentiality. Absent a court order, CONTRACTOR agrees not to use or disclose any information it receives from COURT under this Agreement that COURT has previously identified as confidential or exempt from mandatory public disclosure, except as necessary to carry out the purposes of this Agreement or as authorized in advance by COURT. Absent a court order, COURT agrees not to disclose any information it receives from CONTRACTOR that has previously been identified as confidential or proprietary and that the COURT determines in its sole discretion is protected from public disclosure. The duty of the COURT and CONTRACTOR to maintain confidentiality of information under this section continues beyond the term of this Agreement, or any extensions or renewals of it.

XXIII. Insurance. CONTRACTOR represents and warrants that it has and will continue to maintain with responsible insurance carriers, (i) insurance upon its own plant and equipment against fire and other hazards to the extent that like properties are usually

insured by others operating plants and properties of similar character in the same general locality; (ii) adequate insurance against liability on account of damage to persons or property; and (iii) adequate insurance under all applicable worker's compensation laws. CONTRACTOR will furnish such certificates with respect to its insurance as COURT may from time to time require.

XXIV. Prohibition Against Assignment. Notwithstanding any other provision of this Agreement, CONTRACTOR may not transfer, pledge, or otherwise assign this Agreement, or any interest in it, or any claim arising under it to any party or parties, bank, trust, company or other financing institution.

XXV. Indemnity. CONTRACTOR agrees to defend, indemnify and hold harmless COURT, its agencies, officers and employees from any claims of any nature, including all costs, expenses and attorney's fees, which may in any manner result from or arise from CONTRACTOR'S performance of this Agreement, except for claims resulting from or arising out of the COURT'S sole negligence arising from professional errors and omissions. The legal defense provide by CONTRACTOR to COURT under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for COURT is necessary. CONTRACTOR also agrees to defend, indemnify, and hold COURT harmless for all costs, expenses and attorney's fees incurred in establishing and litigating the indemnification coverage provided in this paragraph. This obligation will continue after the termination of this Agreement.

XXVI. Attorney Fees. If a dispute arises under the terms of this Agreement, and a part to this Agreement brings an action at law or other proceeding against the other party to enforce any of the Agreement's terms, covenants or conditions, the prevailing party in the action or proceeding must be paid its reasonable attorney fees in addition to other damages and costs.

CONTRACTOR

BY: _____

TITLE: _____

DATE: _____

COURT

BY: _____

TITLE: STATE COURT ADMINISTRATOR

DATE: _____

